

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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**BESSEMER SYSTEM FEDERAL CREDIT  
UNION, on behalf of itself and its members,**

Plaintiff,

vs.

Case No. 2:19-cv-00624-RJC

**FISERV SOLUTIONS, LLC, f/k/a FISERV  
SOLUTIONS, INC., and FISERV, INC.,**

Defendants.

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**JOINT MOTION TO AMEND CASE MANAGEMENT ORDER**

Plaintiff Bessemer System Federal Credit Union (“Bessemer”) and Defendants Fiserv Solutions, LLC, f/k/a Fiserv Solutions, Inc., and Fiserv, Inc. (together, “Fiserv”) hereby jointly move for an Amended Case Management Order. In support of this Motion, the parties state as follows:

1. This action was removed to this Court on May 28, 2019. (ECF No. 1).
2. Bessemer filed its Second Amended Complaint on October 30, 2019. (ECF No. 48).
3. Fiserv moved to dismiss Bessemer’s Second Amended Complaint on November 13, 2019. (ECF No. 52).
4. On July 14, 2020, the Court granted in part and denied in part Fiserv’s Motion to Dismiss. (ECF No. 70).
5. Following the Rule 16 scheduling conference on August 20, 2020, the Court stayed discovery in this matter pending court-ordered mediation. (ECF No. 81).

6. Mediation took place on October 27, 2020, and the parties were unable to resolve this dispute.

7. On November 9, 2020, Fiserv served their First Set of Discovery Requests.

8. On November 10, 2020, Bessemer filed its Motion to Dismiss Fiserv's Counterclaims, to which Fiserv filed its opposition on December 8, 2020. (ECF Nos. 92 and 99).

9. From December 23, 2020 through March 17, 2021, this litigation was stayed again pending mediation with neutral Mark Shepard. (ECF Nos. 101, 103, 105, and 107).

10. On March 26, 2021, the Court entered an Amended Case Management Order ("Amended CMO"), which, among other things, set a fact discovery deadline of November 30, 2021. (ECF No. 109).

11. Bessemer served its responses to Fiserv's November 9, 2020 discovery requests on April 9, 2021.

12. On April 29, 2021, Fiserv filed a motion for judgment on the pleadings for dismissal of Bessemer's fraud claim and for Rule 11 sanctions. The Court *sua sponte* denied Fiserv's motion the following day without prejudice to refile such motions after the pleadings closed. (ECF No. 117).

13. Bessemer served its First and Second Requests for Production and its First Set of Interrogatories to Defendants on May 14, May 21, and May 28, 2021.

14. Bessemer served its first supplemental responses to Fiserv's November 9, 2020 discovery requests on June 25, 2021.

15. Fiserv served their responses to Bessemer's discovery requests on August 20, 2021.

16. On September 15, 2021, the Court granted in part and denied in part Bessemer's Motion to Dismiss Counterclaims. (ECF No. 121).

17. On October 18, 2021, Bessemer filed its answer to Fiserv's Amended Counterclaims. (ECF No. 126).

18. On December 1, 2021, the Court entered a second Amended CMO, which, among other things, set a fact discovery deadline of August 22, 2022. (ECF No. 128).

19. Thereafter, the parties encountered several significant discovery disputes regarding the nature and scope of discovery in this case. While the parties have endeavored to meet and confer to address these issues, the parties have been unable to resolve the disputes, which delayed commencement of document discovery and depositions in this case.

20. On December 9, 2021, Bessemer moved to appoint a Discovery Special Master to resolve all discovery disputes between the parties. (ECF No. 132).

21. On December 14, 2021, Fiserv moved for a protective order (ECF Nos. 135-137) and on December 15, 2021, moved to compel Bessemer to produce discovery related to Bessemer's security review. (ECF Nos. 138-140). Bessemer opposed Fiserv's motions on January 21, 2022. (ECF No. 147-149;151).

22. On January 31, 2022, Bessemer filed motions requesting the following discovery-related relief: to compel Fiserv to produce responses to Bessemer's Second Request for Production; to compel Fiserv to produce a privilege log of communications after June 30, 2019; to compel Fiserv to produce documents related to security audits; for a protective order regarding Fiserv's request for production of Bessemer's voicemails; and for a protective order regarding Fiserv's request for security review discovery. (ECF Nos. 154-169). Fiserv opposed Bessemer's discovery related motions on February 21, 2022. (ECF Nos. 173-175).

23. On February 22, 2022, the Court granted Bessemer's motion for a Special Master to handle all outstanding discovery disputes (ECF No. 176) and on June 7, 2022, the Court entered

an Order appointing Mark Shepard to serve as Special Master (ECF No. 195). The parties provided the Special Master with copies of all pending discovery motions.

24. On June 29, 2022, the Special Master held an initial conference with the parties, during which the Special Master indicated that he would first address the issue of the competing protective order before proceeding with addressing the discovery motions.

25. On August 26, 2022, the Special Master held a meet and confer regarding the parties' respective proposed protective orders and the parties' protective orders and under consideration.

26. The parties' discovery motions also remain pending before the Special Master. Once the aforementioned motions are decided, the parties intend to proceed with discovery in an expeditious manner.

27. Based on the foregoing, the parties require additional time in which to complete discovery.

28. After conferring in good faith regarding the efficient management of the dispute, and for reasons of judicial efficiency and other good cause, the parties have agreed to the attached Amended Case Management Order.

29. The Special Master has approved the parties' jointly requested extensions of the discovery deadlines in this matter.

WHEREFORE, the Parties respectfully request that the Court enter the proposed Amended Case Management Order submitted with this Motion.

Dated: August 30, 2022

Respectfully submitted,

s/ **Charles J. Nerko**

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